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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,368	04/19/2001	Rabindranath Dutta	AUS920010016US1	9247
35525	7590	08/16/2004	EXAMINER	
IBM CORP (YA) C/O YEE & ASSOCIATES PC P.O. BOX 802333 DALLAS, TX 75380			REFAI, RAMSEY	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/838,368

Applicant(s)

DUTTA ET AL.

Examiner

Ramsey M Refai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. Claims 1-39 are presented for examination.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show "gatekeeper 152" as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "R4".

Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 8 states "unused extra bandwidth".

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2, 4, 8-9, 18-19, 21, 24, 27-28, and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teeple et al (U.S. Patent Application No. 09/893,323) in view of Connery et al (U.S. Patent No. 6,311,276).

7. As per claim 1, Teeple et al show a method comprising:
establishing at a server a connection with a wireless device(paragraph [0028])
over a wireless network using a wireless protocol (abstract and Fig. 2);
receiving data from the wireless device (abstract; request is received by server) ;
and
storing data on a storage device connected to the network (Figure 2, 275).

8. Teeple et al fail to show a method wherein pushing a request is to backup data to a device.

9. However, Connery et al show a method wherein the CPU receives Wake On LAN packets to wake up the system in order to perform network management services such as backups of data (column 5, lines 15-40). It would have been obvious to one of the ordinary skill in the art at the time of the applicant invention to combine the teachings of Teeple et al and Connery et al to create a method for backing up data wherein the request is to back up data to the wireless device because it would allow for data on a wireless device to be stored on a storage device so it can be retrieved if lost.

10. As per claim 2, Teeple et al show a method wherein the connection is established in response to receipt of an indication that the wireless device has been powered on (This is inherent because a wireless device must be powered on in order to establish a connection. If a wireless device is powered off, the connection is disabled).

11. As per claim 4, Teeple et al show a method wherein the connection is established in response to receipt of a request to backup data from the wireless device (paragraph [0018]).

12. As per claim 8, Teeple et al show a method wherein the connection between the server and the wireless device uses unused extra bandwidth (paragraph [0010]).

13. As per claim 9, Teeple et al teach a method comprising:

- receiving a request in a first protocol for a wireless client (paragraph [0018])
- translating the request formatted in the first protocol into a translated request formatted in a second protocol, wherein the second protocol is compatible with the wireless client (paragraph [0018]) ;
- sending the translated request to the wireless client over a wireless network (paragraph [0141]);
- receiving over the wireless network the data from the wireless client formatted in a third protocol (paragraph [0018]) ;

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translating the data formatted in the third protocol into translated data formatted in a fourth protocol compatible with server (paragraph [0018]); and

sending the translated data to the (paragraph [0018]).

14. Teeple et al fail to teach a method wherein the request is to backup data to the device.

15. However, Connery et al teach a method wherein in a network, the CPU receives Wake On LAN packets to wake up the system in order to perform network management services such as backups of data (column 5, lines 15-40). It would have been obvious to one of the ordinary skill in the art at the time of the applicant invention to combine the teachings of Teeple et al and Connery et al to create a method for backing up data wherein the request is to back up data to the wireless device using different protocols because it would allow for data on a wireless device to be stored on a storage device so it can be retrieved if power failure occurred on the wireless device and by using different protocols, allows the wireless device to communicate to a server.

16. As per claims 18, 24, and 31, they have similar limitations as claim 9, therefore are rejected under the same rationale.

17. As per claim 27, it contains similar limitations as claim 1, therefore is rejected under the same rationale.

18. As per claims 19 and 28, they contain similar limitations as claim 2, therefore are rejected under the same rationale.

19. As per claims 21 and 30, they contain similar limitations as claim 4, therefore are rejected under the same rationale.

20. Claims 3, 7, 20, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teeple et al (U.S. Patent Application No. 09/893,323) in view of Connery et al (U.S. Patent No. 6,311,276) and in further view of Mousseau et al (U.S. Patent Application No. 09/781,989).

21. As per claim 3, Teeple et al fail to show its limitations.

22. However, Mousseau et al show a method wherein connection is established periodically (paragraph [0004]). It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Teeple et al and Mousseau et al to create a method for backing up data wherein the connection is established periodically because doing so would allow data to get updated frequently such as when adding an address to an address list.

23. As per claim 7, Teeple et al fail to teach a method wherein the data includes at least one of phone lists, calendars, address lists and note.

24. However Mousseau et al teach a method wherein the data items preferably include E-mail messages, calendar events, meeting notifications, address entries, journal

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entries, personal alerts, etc. (paragraph [0013 and 0031]). It would have been obvious to one of the ordinary skill in the art at the time of the applicant invention to combine the teachings of Teeple et al and Mousseau et al to create a method for backing up data on a mobile device wherein the data includes calendar or address lists because this information is very important and a wireless device would lose most of this information when power on the wireless device is lost.

25. As per claims 20 and 29, they contain similar limitations as claim 3, therefore are rejected under the same rationale.

26. Claims 5, 6, 10-13, 22-23, and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teeple et al (U.S. Patent Application No. 09/893,323) in view of Connery et al (U.S. Patent No. 6,311,276), and in further view of Leppinen (U.S. Patent No. 6,735,186).

27. As per claim 5, Teeple et al fail to teach the limitations in claim 5.

28. However Leppinen teaches a method wherein the step of pushing the request comprises sending a textual based service load to a proxy server, wherein the proxy server is configured to translate textual based service loads to binary based service loads and send the translated service load to the wireless device (column 3, lines 15-30).

29. As per claim 6, Teeple et al fail to show the limitations in claim 6.

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30. However Leppinen teaches a method wherein the service load provides a uniform resource identifier for an application that the wireless device may retrieve to transmit the data to the server (column 3, lines 15 – 30).

31. It would have been obvious to one of the ordinary skill in the art at the time of the applicant invention to combine the teachings of Teeple et al and Leppinen to create a method for backing up data comprising a proxy server to translate textual based service loads to binary based service loads and send the translated service load to the wireless device wherein the service load provides a uniform resource identifier the because it would provide a wireless phone the ability to receive a specific webpage requested, in a format that is within its constraints.

32. As per claims 10, 11, 22, 23, 32, and 33 they have similar limitations as claims 5 and 6, therefore are rejected under the same rationale.

33. As per claim 12, Teeple et al show a method wherein the third protocol is a wireless application protocol (paragraph [0011]).

34. As per claim 13, Teeple et al show a method wherein the fourth protocol is a hypertext transfer protocol (paragraph [0008]).

35. As per claims 34 and 35, they contain similar limitations as claims 12 and 13, therefore are rejected under the same rationale.

36. Claims 14-17, 25-26, 36, and 39 are rejected under 35 U.S.C. 103(a) as being anticipated by Mousseau et al (U.S. Patent Application No. 09/781,989) in view of Connery et al (U.S. Patent No. 6,311,276).

37. As per claim 14, Mousseau et al show a method comprising:

via a wireless network, retrieving, without user intervention, the data from storage within the a wireless client (paragraph [0003]); and

transmitting, without user intervention, the data via a wireless network (paragraph [0003]) utilizing a wireless protocol (paragraph [0027]).

38. However Mousseau et al fail to show a method comprising responsive to receipt of a push from a backup server, backing up data to a backup server via a network.

39. Connery et al show a method wherein in a network, the CPU receives Wake On LAN packets to wake up the system in order to perform network management services such as backups of data (column 5, lines 15-40). It would have been obvious for one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Mousseau et al and Connery et al to create a method for backing up data by pushing a request from the backup server to the wireless client because doing so would provide for data on a wireless device to continuously and automatically get backed up in case of power failure to that device.

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40. As per claim 15, Mousseau et al teach a method wherein the data to be backed up is sent to the server by way of a proxy server and is sent using a wireless application protocol (paragraph [0027]; gateway).

41. As per claim 16, Mousseau et al teach a method comprising:

transmitting a request to the backup server via the wireless network to retrieve backed up data (paragraph [0003]);

receiving the backed up data from the backup server via the wireless network (paragraph [0003]); and

storing the backed up data on the wireless client (paragraph [0003]).

42. As per claims 17, 25, 26, 36, and 39, they contain the same limitations as claim 14, therefore are rejected under the same rationale.

43. Claims 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mousseau et al (U.S. Patent Application No. 09/781,989) in view Connery et al (U.S. Patent No. 6,311,276) in further view of Teeple et al (U.S. Patent Application No. 09/893,323).

44. As per claims 37 and 38, Mousseau et al fail to show a system wherein the wireless device is a wireless phone or a personal digital assistant.

45. However, Teeple et al show a system wherein the mobile devices can include personal digital assistants and cell phones (paragraph [0009]). It would have been

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obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Mousseau et al and Teeple et al to create a system for backing up data to a server wherein the wireless device is a wireless phone or a personal digital assistant because these two devices are the most commonly known and used wireless devices. They are known to contain programs such as a calendar and an address lists, which are important to the user and would require a way to backup the data incase of power failure to these devices.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a. Elnozahy (U.S. Patent No. 6,421,701)
- b. Cohen et al (U.S. Patent Application No. 10/040,617)
- c. Huang et al (U.S. Patent No. 6,477,543)
- d. Huang et al (U.S. Patent Application No. 09/820,509)
- e. Boyle et al (U.S. Patent No. 6,119,167)
- f. Eerola (U.S. Patent No. 6,678,518)
- g. Myers et al (U.S. Patent Application No. 09/854,870)
- h. Linden et al (U.S. Patent No. 6,549,773)
- i. Kanevsky et al (U.S. Patent No. 6,496,949).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey M Refai whose telephone number is (703) 605-4361. The examiner can normally be reached on M-F 8:30 - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ramsey M Refai
Examiner
Art Unit 2154

RMR
July 15, 2004


JOHN FOLLANSBEE
SUPERVISOR, PATENT EXAMINER
TECHNOLOGY CENTER 2100